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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

19 CV 6137 CJS

FORM TO BE USED IN FILING A COMPLAINT  
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983  
(Prisoner Complaint Form)

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION

A. Full Name And Prisoner Number of Plaintiff: NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization

1. Jose Gonzalez, 18B1904

-VS-

B. Full Name(s) of Defendant(s) NOTE: Pursuant to Fed. R. Civ. P. 19(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.

1. Shaw Cronin, Superintendent

2. Timothy B. Howart, Sheriff

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1345(2) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name and Prisoner Number of Plaintiff: Jose Gonzalez 18B1904

Present Place of Confinement & Address: Graveland Correctional Facility, P.O. Box 50  
Sonyea, NY 14556

Name and Prisoner Number of Plaintiff: Jose Gonzalez 18B1904

Present Place of Confinement & Address: Graveland Correctional Facility, P.O. Box 50,  
Sonyea, NY 14556

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: Shaw Cronin

(If applicable) Official Position of Defendant: Superintendent of Groveland Corr. Fac

(If applicable) Defendant is Sued in \_\_\_\_\_ Individual and/or ☒ Official Capacity

Address of Defendant: Groveland Correctional Facility  
P.O. Box 50, Sonyea, New York 14556-0050

Name of Defendant: Timothy B. Howard, Sheriff

(If applicable) Official Position of Defendant: Sheriff of Erie County Corr. Fac

(If applicable) Defendant is Sued in \_\_\_\_\_ Individual and/or ☒ Official Capacity

Address of Defendant: Erie County Sheriff's Office  
10 Delaware Ave., Buffalo, New York 14202

Name of Defendant: \_\_\_\_\_

(If applicable) Official Position of Defendant: \_\_\_\_\_

(If applicable) Defendant is Sued in \_\_\_\_\_ Individual and/or \_\_\_\_\_ Official Capacity

Address of Defendant: \_\_\_\_\_

#### 4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?  
Yes \_\_\_\_\_ No ☒

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): \_\_\_\_\_

Defendant(s): \_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county): \_\_\_\_\_

3. Docket or Index Number: \_\_\_\_\_

4. Name of Judge to whom case was assigned: \_\_\_\_\_

5. The approximate date the action was filed: \_\_\_\_\_

6. What was the disposition of the case?

Is it still pending? Yes \_\_\_\_\_ No \_\_\_\_\_

If not, give the approximate date it was resolved. \_\_\_\_\_

Disposition (check the statements which apply):

\_\_\_\_\_ Dismissed (check the box which indicates why it was dismissed):

\_\_\_\_\_ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

\_\_\_\_\_ By court for failure to exhaust administrative remedies;

\_\_\_\_\_ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

\_\_\_\_\_ By court due to your voluntary withdrawal of claim;

\_\_\_\_\_ Judgment upon motion or after trial entered for

\_\_\_\_\_ plaintiff

\_\_\_\_\_ defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes \_\_\_\_\_ No ☒

If Yes, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): \_\_\_\_\_

Defendant(s): \_\_\_\_\_

2. District Court: \_\_\_\_\_

3. Docket Number: \_\_\_\_\_

4. Name of District or Magistrate Judge to whom case was assigned: \_\_\_\_\_

5. The approximate date the action was filed: \_\_\_\_\_

6. What was the disposition of the case?

Is it still pending? Yes \_\_\_\_\_ No \_\_\_\_\_

If not, give the approximate date it was resolved. \_\_\_\_\_

Disposition (check the statements which apply):

Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

Judgment upon motion or after trial entered for

☐ plaintiff

☐ defendant.

### 5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- |                    |                             |  |
|--------------------|-----------------------------|--|
| • Religion         | • Access to the Courts      | • Search & Seizure                       |
| • Free Speech      | • False Arrest              | <del>• Malicious Prosecution</del>       |
| • Due Process      | • Excessive Force           | <del>• Denial of Medical Treatment</del> |
| • Equal Protection | • <u>Failure to Protect</u> | • Right to Counsel                       |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(e) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claims asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). Fed.R.Civ.P. 10(b) states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

### Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.



A. FIRST CLAIM: On (date of the incident) On february 16, 2018

defendant (give the name and position held of each defendant involved in this incident) Timothy B. Howard,  
Sheriff of Erie County ~~Corrections~~ Correctional facility,

did the following to me (briefly state what each defendant named above did): Plaintiff after informing  
Medical of ~~my~~ <sup>his</sup> hernia problem, ask his attorney would he talk  
to them, because they have been ignoring Plaintiff request for  
medical treatment, (see letter dated february 16, 2018), what they  
did was pass ~~the~~ the problem to Groveland Correctional  
facility, were little to ~~no~~ no real treatment is taken place!

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Denial of Medical Treatment

The relief I am seeking for this claim is (briefly state the relief sought): \$10,000.000.00

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? ☒ Yes ☐ No If yes, what was the result? Did not  
receives the appropriate treatment for my hernia.

Did you appeal that decision? ☐ Yes ☐ No If yes, what was the result?

*Attach copies of any documents that indicate that you have exhausted this claim.*

If you did not exhaust your administrative remedies, state why you did not do so:

A. SECOND CLAIM: On (date of the incident) from the time I got here to date of this writing  
 defendant (give the name and position held of each defendant involved in this incident) Shaw Cronin,  
Superintendent, Groveland Correctional facility

did the following to me (briefly state what each defendant named above did) fail to provide appropriate medical intervention, including needed surgery for my Hernia, my condition is so bad that I can hardly walk. Also on 1/23/19, there was a big snow storm, I had to walk to medical that day, which is up a big hill. on my way back, because the walking path were not clear, I fell coming down the hill, this was seen by the officer in the tower who told me to lay there until help come. I was taken to medical given some pain med. and crutches, and  
 See Attach sent back down the same hill.  
 The constitutional basis for this claim under 42 U.S.C. § 1983 is: failure to protect by not plowing walk way

The relief I am seeking for this claim is (briefly state the relief sought) \$15,000.00.00

#### Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? ☒ Yes ☐ No If yes, what was the result? they took my crutches

Did you appeal that decision? ☐ Yes ☒ No If yes, what was the result?

*Attach copies of any documents that indicate that you have exhausted this claim.*

If you did not exhaust your administrative remedies, state why you did not do so:

If you have additional claims, use the above format and set them out on additional sheets of paper.

#### 6. RELIEF SOUGHT

*Summarize the relief requested by you in each statement of claim above*

At this point I am in need of surgery for the additional medical problems and my injuries from the fell.

Do you want a jury trial? Yes ☒ No ☐

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United State District Court Western District of  
New York

Attach from page #6, "A. Second Claim" february 12, 2019  
The Superintendent, Shaw Cronin, came to see me about  
10-15 min. after the fall, it must be noted here that on  
January 23, 2019, a very bad snow storm hit this Jail  
and I had to make it back and forth in a condition  
in which I can hardly walk because of my surrkit  
hernia problem. At the time of this sailing I  
still await the approval of Albany.

José Gonzalez  
José Gonzalez  
18 B 1904

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 12, 2019  
(date)

NOTE: Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.

José Gonzalez  
Signature(s) of Plaintiff(s)



JS 44 (Rev. 02/19)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Jose Gonzalez

18-B-1904

Groveland CF

(b) County of Residence of First Listed Plaintiff Livingston

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Pro se**DEFENDANTS**

Cronin et al

**19 CV 6137 CJS**

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

| CONTRACT  | TORTS  | FORFEITURE/PENALTY   | BANKRUPTCY  | OTHER STATUTES  |   |
|---|--|--|---|---|---|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other<br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Management Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Employee Retirement Income Security Act<br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 835 Patent - Abbreviated New Drug Application<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 485 Telephone Consumer Protection Act<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property  | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 448 Education   | <b>PRISONER PETITIONS</b><br><b>Habeas Corpus:</b><br><input type="checkbox"/> 463 Alien Detainee<br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><b>Other:</b><br><input checked="" type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement                     |   |   |   |

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation - Transfer    ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42:1983 Prisoner Civil Rights

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

**DEMAND \$**  
 15,000,000.00

 CHECK YES only if demanded in complaint:  
**JURY DEMAND:** ☒ Yes ☐ No
**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE NADOCKET NUMBER NA

DATE

SIGNATURE OF ATTORNEY OF RECORD

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_